IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 920 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LIMBASI URBAN

Versus

STATE OF GUJARAT

Appearance:

MR PRADEEP PATEL for Petitioners

MR MA PATEL,A.P.P. for Respondent No. 1

NOTICE SERVED for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 16/06/2000

ORAL JUDGEMENT

This petition under Article 227 of the Constitution is filed by Limbasi Urban Co-operative Bank Ltd. The petitioner is aggrieved by the order of confiscation of the offending vehicle passed by the competent authority under section 61A(2) under the provisions of Indian Forests Act, on the ground that the vehicle in question was involved in transporting the prohibited forest produce. The petitioner bank had filed appeal before the Sessions Court, Bharuch but the learned

Addl. Sessions Judge by his judgment and order dated 17.05.1999 dismissed the appeal. The grievance of the petitioner is that they had advanced loan to the petitioner no.2 to enable him to purchase the truck and he had transferred it illegally and unauthorisedly to respondent nos. 3 and 4. It is contended that the competent authority ought to have issued notice to them before passing the order of confiscation. However, the bank could have taken proceedings to enforce the rights arising under the loan agreement before the offence was committed but nothing was done. The contention raised by the petitioner bank has been considered and negatived by the learned Addl. Sessions Judge. In the circumstances of the case, there is no scope for interference in exercise of writ jurisdiction under Article 227.

The learned Counsel for the petitioner has drawn my attention to the order dated 4.5.1998 passed by this Court in Criminal Application No.105 of 1993. The petitioner was allowed to take custody of the truck during the pendency of this petition on the condition stated in the said order. However, the learned Counsel for the petitioner states that the truck was in such a condition that the petitioner did not avail itself of the benefit of this order and did not choose to take possession of the truck. Now that the petition is finally disposed of the said order does not survive. The petition is therefore dismissed. Rule discharged.

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m.m.bhatt